

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

NISQUALLY INDIAN TRIBE,

Plaintiff,

v.

CHRISTINE O. GREGOIRE, governor of the
State of Washington, ANDREW
WHITENER, Director of Skookum Creek
Tobacco Co., DAVID LOPEMAN, Director
of Skookum Creek Tobacco Co., BRYAN
JOHNSON, General Manager of Skookum
Creek Tobacco Co.,

Defendants.

Case No. C08-5069RBL

ORDER ON FRANK'S LANDING
INDIAN COMMUNITY'S REQUEST
FOR *IN CAMERA* REVIEW

The matter comes before the Court on the intervening Defendant Frank's Landing Indian Community's ("the Community") Motion to Disqualify Jerome Levine and Holland & Knight [Dkt. # 61]. The Community argues that Mr. Levine and Holland & Knight should be disqualified as Plaintiff's counsel because the Community was a prospective client in 2005, and, at that time, Holland & Knight received both written and oral confidential information from the Community that is substantially related to this lawsuit and that would cause significant harm to the Community if used by Plaintiff's counsel in this litigation.

The Community has moved to disqualify Holland & Knight on the basis that, the firm, by representing an adverse party to the Community, the Plaintiff, has violated Washington Rule of Professional Conduct ("RPC") 1.18. The Community argues that neither Mr. Levine nor Holland &

1 Knight have taken steps that would allow them to continue representation of Nisqually Indian Tribe in this
2 lawsuit. The Community has asked this Court to review *in camera* the communications that it claims to be
3 confidential and that Holland & Knight received in 2005 when the Community was discussing the
4 possibility of retaining the firm.

5 The Court ORDERS that the Community shall produce for *in camera* inspection by Friday, March
6 28, all documents and communications shared among or between the Community and Plaintiff's counsel,
7 Jerome Levine and Holland & Knight, relating to the Community's interest in 2005 in retaining the firm as
8 supplemental counsel. The Court will thereafter issue a ruling on the Community's Motion to Disqualify.

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10 IT IS SO ORDERED.

11 Dated this 25th day of March, 2008.

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15 RONALD B. LEIGHTON
16 UNITED STATES DISTRICT JUDGE
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